



**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

In re:)	Chapter 11
)	
Eagle-Picher Holdings, Inc., et al.,)	Jointly Administered
)	Case No. 05-12601
Debtors.)	
)	Judge Jeffrey P. Hopkins.

OBJECTION OF EPMC HOLDINGS CORPORATION TO MOTION BY WILLIAM L. WEST, CUSTODIAL TRUSTEE OF THE EP CUSTODIAL TRUST, TO ENTER AN ORDER AMENDING THE EP CUSTODIAL TRUST TO PROVIDE FOR A TRANSFER OF THE SUM OF \$100,000.00 FROM THE HILLSDALE TRUST ACCOUNT TO THE ADMINISTRATION ACCOUNT OF THE EP CUSTODIAL TRUST

EPMC Holdings Corporation ("EPMC") objects (the "Objection") to the *Motion by William L. West, Custodial Trustee of the EP Custodial Trust, to Enter an Order Amending the EP Custodial Trust to Provide for a Transfer of the Sum of \$100,000.00 from the Hillsdale Trust Account to the Administration Account of the EP Custodial Trust* (the "Motion"), which was filed by William L. West, Custodial Trustee of the EP Custodial Trust (the "Trustee") on April 22, 2015. The Motion is a baseless attempt to divert funds intended for the environmental remediation of the Industrial Drive Property in Hillsdale, Michigan ("Hillsdale Site"), nine years after the establishment of and in contravention of the EP Custodial Trust (the "Trust"), for the benefit of professionals and to the detriment of EPMC. During these nine years, little to no remediation has been conducted at the Hillsdale Site, yet, the Motion represents that there are insufficient funds in the Trust to complete the Hillsdale Site remediation and that in excess of \$100,000 is still needed to pay for administrative costs ancillary to remediation. This position is illogical and raises questions about how the Trust has been administered and funds for the Hillsdale Site used since the Trust's creation. Importantly, the Trustee acknowledges that there are insufficient funds remaining to remediate the Hillsdale Site, even if the Motion is granted.

The Motion fails to substantiate the sudden increase in the cost of remediation at the Hillsdale Site, almost a decade into this process, the amount of administrative costs incurred related to the Hillsdale Site to date, or why the remediation at the Hillsdale Site has not been completed given what has already been spent. As recently as August 2014, the Trustee estimated the cost for the completion of the Hillsdale Site remediation was \$370,000.00, and noted that the Trust had \$731,310.00 remaining. Now, less than a year later, there purports to be an additional \$330,000.00 required to completely remediate the Hillsdale site. The Trustee offers no explanation for why the cost of remediation has more than doubled in the last eight months, why the Trust should be amended almost a decade after it was created to benefit professionals, and why EPMC and the State of Michigan should be left holding the proverbial bag for what appears to be questionable use of Trust funds, such that the Motion should be denied. In support of this Objection, EPMC submits the affidavit of Paul Harper ("Harper Aff," attached as Exhibit A), who was EaglePicher Incorporated's Director of Health, Safety, and Environmental from 1986 to 2006, and who is now the principal and global lead of ENVIRON International Corporation's Occupational Health practice area, where he assists clients in addressing complex environmental and occupational health issues.

FACTUAL BACKGROUND RELEVANT TO THIS OBJECTION

The Purpose of the EP Trust and Trust Agreement

1. The EP Custodial Trust Agreement ("Trust Agreement") provided that three Michigan properties, including the Hillsdale Site, were to be funded for remediation in the amount of \$2.4 million. The Court determined that this amount was sufficient to administer the Trust and the remediation costs for the Hillsdale Site. There are two accounts at issue- the Hillsdale Trust Account for remediation and the Administrative Account for professional costs.

2. When the Trust was established, it was anticipated that remediation of the Hillsdale Site would be completed within five years, and the Trust was funded accordingly and memorialized in a settlement agreement that was approved by this Court. (Harper Aff. at ¶ 20) The bulk of the remediation was to occur in the first five years of the Trust (Id.) It was always expected that an SVE System would be needed to remediate the Hillsdale Site ((Id. at ¶13), *see also Custodial Trustee's Annual Report for January 1, 2009 through December 31, 2009*, Doc ID 3327).

3. The Trust Agreement provides that “administrative costs that are not Environmental Costs may be paid *only* from the Administration Custodial Trust Account and may not be paid from the Custodial Trust Accounts for Environmental Costs related to those accounts.” (Trust Agreement at 2 2(c))

4. Section 2.3 of the Trust Agreement outlines the Trustee’s duties and requires the Trustee to “*use best efforts to utilize cost-effective and reasonable methods for investigation, remediation and/or containment.*” The Trust Agreement further provides that the “Custodial Trustee shall pursue and advance the Environmental Actions *in good faith, without unreasonable delay*, subject to any delay wholly or partially outside the control of the Custodial Trustee, and in compliance with all applicable laws and regulations.

EP Trust Annual Reports of Continuous Hillsdale Site for Nine Years

5. Under the Trust Agreement, the Trustee is required to provide an annual budget for the calendar year, and an annual report pertaining to the prior calendar year. (Trust Agreement at 3.2(b)). The Trustee has not filed annual budgets, but has filed annual reports, which are instructive

6 On April 29, 2007, the Trustee filed the *Custodial Trustee's Annual Report for July 31, 2006 through December 31, 2006*. (Doc. ID 2822-1). The Trustee’s report described the

activities at the Hillsdale Site. It noted that a draft Site Investigation Work Plan ("SIWP") was submitted to the applicable environment agencies in December 2006. The Trustee noted that once he receives comments from the Agencies, the SIWP would be modified, if appropriate, and resubmitted to the applicable Environmental Agencies. The Trustee noted that expected to implement the SIWP and prepare a Site Investigation Report during 2007

7. The Site Investigation Report was not prepared in 2007, and was still not prepared in 2008. In the *Custodial Trustee's Annual Report for January 1, 2008 Through December 31, 2008*, the Trustee stated that the Site Investigation Report was anticipated to be complete in July 2009. (Doc. ID 3262).

8 The Site Investigation Report was not completed in July, 2009. In the *Custodial Trustee's Annual Report for January 1, 2009 through December 31, 2009*, the Trustee stated that he now anticipated that the Site Investigation Report would be completed more than a year later, in August of 2010. The Trustee noted his hope that the completion of a Site Investigation Report would improve the marketability of the Hillsdale Site. (Doc ID 3327).

9. By the end of 2010, remediation at the Hillsdale Site had still not begun, and the Site Investigation Report was not completed. The Trustee noted that remediation activities would be implemented in the second half of 2011, after approval of a Remedial Program Workplan Addendum. The Trustee again explained that he was optimistic that the completion of a Site Investigation Report would improve the marketability of the Hillsdale Site. (*Custodial Trustee's annual Report for January 1, 2010 through December 31, 2010*, Doc ID 3400).

10 Still, by March 29, 2012, remediation at the Hillsdale Site had not yet begun. The Trustee estimated that remediation would begin in the second quarter of 2012. (*Custodial Trustee's Annual Report for January 1, 2011 through December 31, 2011*, Doc ID 3455).

11. By the end of 2012, further testing of the Hillsdale Site was ongoing, but remediation had not yet begun. (*Custodial Trustee's Annual Report for January 1, 2011 through December 31, 2011*, Doc ID 3522).

12. As of May 2014, possible remediation of the Hillsdale Site was still being explored, but no treatment of the Hillsdale Site had begun. The Trustee noted that the remediation contractor, CEC, planned to evaluate the feasibility of remedial alternatives in 2014 (*Custodial Trustee's Annual Report for January 1, 2012 through December 31, 2012*, Doc ID 3545).

13 Only two months after the *Custodial Trustee's Annual Report for January 1, 2012 through December 31, 2012*, the Trustee indicated that he was planning to install an SVE system to remediate the Hillsdale Site, and that the cost would be approximately \$370,000.00. (William West, August 11, 2014 e-mail correspondence to Colleen Hitchins, attached as Exhibit B).

14. Despite the fact that the Trustee represented that a remedial plan had been prepared, in the Trustee's most recent annual report, filed on March 30, 2015, he indicated that the method of remediation was *still* being assessed and would be ongoing into 2015. (*Custodial Trustee's Annual Report for January 1, 2014 through December 31, 2014*, Doc ID 3550).

15 In the Motion, the Trustee now states that more than \$812,700.00 will be required to remediate the Hillsdale Site, exceeding the funds available, and that the remediation will not be complete in 2015, plus additional professional fees for which the Motion seeks payment.

16. The delay in completing remediation and the amount spent on the Hillsdale Site to date is unexplainable, especially given the depletion in allocated funds for the Hillsdale Site to date, which total \$1,782,408 (Harper Aff. at ¶10) This amount has been compiled from the reports that the Trustee has filed with the Court, is apparently not available by site location with respect to administrative costs as requested from the Trustee prior to filing this Objection.. The Trustee's

reports are devoid of any explanation of the value provided for the administrative expenditures for the Hillsdale Site.

Nine Years Confirming What Was Known Day One, With No Remediation Completed

17. Regardless of the detailed Hillsdale Site administrative cost allocation, what is known is that the Trustee has spent almost nine years and hundreds of thousands of dollars confirming what has been known since the Trust was established. that an SVE system will be effective technique for remediation of the Hillsdale Site. (*Custodial Trustee's Annual Report for January 1, 2009 through December 31, 2009*, Doc ID 3327)

18. The Trustee's first report to this Court identified a rubber plant as the source of environmental contamination at the Hillsdale Site. Despite this, the Trustee undertook tests in 2007 to determine the source of the contamination, which defies logic. As had to be expected, the results of the tests revealed no additional sources of contamination (*Custodial Trustee's Annual Report for January 1, 2007 through December 31, 2007*, Doc ID 3121-1).

19. Inexplicably, again in 2008, the Trustee insisted that more tests were required to verify the Hillsdale Site contamination. The Trustee again noted that the Site Investigation Report should demonstrate that the contamination emanated from the rubber factory (*Custodial Trustee's Annual Report for January 1, 2008 through December 31, 2008*, Doc ID 3262).

20 And yet again, in September and December 2009, further testing was done to define the nature and extent of the contamination. (*Custodial Trustee's Annual Report for January 1, 2009 through December 31, 2009*, Doc ID 3327).

21 Finally, in his 2011 report, the Trustee concluded that the contamination emanated from the rubber factory. (*Custodial Trustee's Annual Report for January 1, 2011 through December 31, 2011*, Doc ID 12601).

22. Given that on day one the source of the Hillsdale Site contamination was known, the repeated inquiries into its source and the associated costs need explanation, as do related professional costs.

Increased Property Taxes Are Due to Lack of Remediation at and Disposition of the Hillsdale Site

23. The Trustee asserts that the Administrative Account has been exhausted by \$350,000 in estimated property taxes. However, a review of Administrative Account cash flow indicates that the Administrative Account has received in excess of \$1.13 million funds from rental income, property sales, and other income. (See EP Custodial Trust Administrative Fund Summary, attached as Exhibit C) The remainder of amounts in the Administrative Account appears to have paid professional costs, but an exact breakdown has not been provided.

The Motion Seeks Relief in Contravention of the Trust and that Is Not Supported by Evidence

24. In the Motion, the Trustee seeks to move \$100,000 from Hillsdale Trust Account (the remediation funds) to the Administrative Account to pay for the administrative costs of remediation at the Hillsdale Site. The Trustee's estimated remediation costs for the Hillsdale Site have dramatically increased without explanation, the existing funds for the Hillsdale Site have been depleted for what appear to be unneeded examinations and associated professional costs, the requested transfer of funds will only benefit professionals and still not cover the cost of remediation, and the requested relief is contrary to the Trust agreed upon and approved almost a decade ago. Pursuant to the terms of the Trust, if the Motion is granted and the Trust is amended despite what appears to be questionable management, unnecessary administrative costs, and last-minute and unsupported estimate increases, EPMC, which funded the Trust, will be damaged because its recovery from remaining Trust funds will be extinguished.

ARGUMENT

A. The Trust Should Not Be Amended.

25 As the foregoing demonstrates, the amount that the Trustee has spent on the Hillsdale Site to date defies explanation, with no benefit. (Harper Aff. at ¶15) It is astonishing that in nine years the Trustee has managed only to define the area of contamination and select a method of remediation, while spending nearly \$2 million of the funds in the Trust. Such a result is not consistent with the Trustee's duties under the Trust, which mandate that he "use his best efforts to utilize cost-effective and reasonable methods for investigation, remediation, and/or containment" and that he act in good faith, without unreasonable delay.

26. The fact that the Trustee's estimated cost of remediation at the Hillsdale Site has doubled in the span of eight months with no explanation further defies explanation. Transferring to the Administrative Account funds that are intended for remediation to allow professionals to continue to be paid for the Trust administration when no remediation has occurred makes no sense. As the Trustee admits, the Trust Agreement specifically provides that "administrative costs that are not Environmental Costs may be paid only from the Administration Custodial Trust account and may not be paid from the Custodial Trust Accounts for Environmental Costs related to those accounts." The clear intention of this provision is to make sure the amounts in the Trust are allocated to remediation and specifically *prohibits* their use for administrative expenses. Citing no authority, the Trustee suggests that as long as the beneficiary agrees, the Trust Agreement may be amended. Such a conclusion would vitiate the Trust Agreement, allowing modifications to the Trust Agreement at the whim of the beneficiary.

27. Next, the Trustee argues that the doctrine of deviation should permit the shifting of funds from the Trust account to the administrative account, asserting that it is required to allow remediation to continue

28. Under the Trustee's argument, no matter how much an administrative shortfall exists, as long as transfer of the Hillsdale Trust funds to the Administrative Account allow *some* additional remediation to occur, a shifting of the funds is acceptable. Under such a scheme, the Trustee and other administrators are incentivized to be as inefficient as possible in the administration of the remediation, in order to collect additional administrative fees. This is exactly why the Trust Agreement provides for separate accounts for the remediation and administrative expenses. Without such a provision, there is a risk that administrative fees will be disproportionate to the amounts spent on remediation, as appears to be the case here. Indeed, this is what will occur here if the transfer is permitted.

29. "[T]he doctrine of deviation is to be applied with caution and only to the extent necessary *to accomplish the purpose of the grantor.*" *Papiernik v. Papiernik*, 45 Ohio St.3d 337, 345, 544 N.E.2d 664, 672 (1989). The Trustee's proposed remediation does not further the purpose of the grantor, rather it exclusively benefits the professionals who are responsible for carrying out the purpose of the Trust, to the detriment of the Trust itself.

B. The Shortfall in the Administrative Account is the Sole Responsibility of the Trustee.

30. It must also be noted that the Trustee's contention that unexpected property taxes resulted in an Administrative Account shortfall is disingenuous at best. An examination of the Administrative Account's cash flow notes that rental income and property sales over the past nine years more than made up for any increased property taxes, resulting in an additional \$1,132,800.00 beyond the amount in which the account was funded. This resulted in an

Administrative Account that was approximately 140% of original Administrative Account estimate. (Exhibit C). The Trustee's inability to complete the Hillsdale Site remediation, even with this significant windfall, underscores that the relief requested in the Motion, if granted, is far from a guarantee that it will result in the completion of remediation at the Hillsdale Site

31 Furthermore, under the Trust Agreement, \$285,172.98 of the rental income from the Hillsdale Debtors was to be allocated to the Trust. However, this rental income was improperly allocated to the Administrative Account. Thus, in essence, the Trustee has already received \$285,172.98 from the Trust in violation of the Trust Agreement, but now seeks a transfer of an additional \$100,000.00. The Trustee's misallocation of funds should not be compounded by permitting a transfer of funds from the Trust.

C. The Trustee's Requested Amendment is Futile.

32. Finally, if the Trustee's representations regarding the cost of completing remediation is accurate, by his own admission, the amount in the Trust is insufficient to complete the remediation at the Hillsdale Site. The Trustee is simply unable to explain the purpose behind continuing to administer a remediation that he is unable to complete.

33. It bears reiterating that "the doctrine of deviation is to be applied with caution and only to the extent necessary *to accomplish the purpose of the grantor.*" *Papiernik v. Papiernik*, 45 Ohio St.3d 337, 345, 544 N.E.2d 664, 672 (1989). In the instant case, the Trustee admits that the proposed deviation will not permit the purpose of the Trust-remediation-to be accomplished.

34. Under the terms of the Trust Agreement, when the Trust funds are depleted, the Hillsdale Site will become the responsibility of the State of Michigan. Under the Trustee's proposed remediation plan, the State of Michigan will have responsibility for completing the remediation because there are insufficient funds in the Trust.

35. However, if the Motion is granted, when the State of Michigan acquires the Hillsdale Site, it will have \$100,000.00 fewer dollars in the Hillsdale Trust Account to complete the remediation effort. Neither the State of Michigan nor EPMC should be damaged because of the questionable management and exorbitant administrative fees associated with the administration of the Trust, and the Motion should be denied.

36. "One of the important functions of a court of equity is to assist in enforcement and administration of trust, and hence to make such orders and decrees as will secure the carrying out of the creators' expressed intent, as to the dispositive provisions, as to the directions, as to the methods to be used, and as to the details of administration to be followed by the trustee. *Evans v Evans*, 2014-Ohio-4450, ¶ 94 (4th Dist. Jackson) citing *Papiernik*, 45 Ohio St.3d 337.

37 Accordingly, this Court should deny the Trustee's motion, which would contravene the intent of the Trustee Agreement

CONCLUSION

For the foregoing reasons, and pursuant to this Court's power to prevent inequitable conduct under 11 U.S.C.A. §105, the *Motion By William L. West, Custodial Trustee of the EP Custodial Trust, to Enter an Order Amended the EP Custodial Trust to Provide for a Transfer of the Sum of \$100,000.00 From the Hillsdale Trust Account to the Administration Account of The EP Custodial Trust* should be denied in its entirety.

Dated: May 11, 2015

Respectfully submitted,

FROST BROWN TODD LLC

/s/ Paige L. Ellerman

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Objection was served on all parties receiving ECF Noticing in this chapter 11 case and via regular mail to those parties listed below on this 11th day of May, 2015.

/s/ Paige L. Ellerman

Paige L. Ellerman, Esq.

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Exhibit A

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

In re:)	Chapter 11
)	
Eagle-Picher Holdings, Inc., et al.,)	Jointly Administered
)	Case No. 05-12601
Debtors.)	
)	Judge Jeffrey P. Hopkins.

STATE OF ARIZON)
) ss
COUNTY OF _____)

AFFIDAVIT OF PAUL HARPER

The Affiant, Paul Harper, having been duly sworn, states as follows:

1. I was the Director of Health, Safety, and Environmental for EaglePicher Incorporated from 1986 to 2006.
2. I am current the principal and global lead of ENVIRON International Corporation's Occupational Health practice area, where I assist clients in addressing complex environmental and occupational health issues.
3. A true and accurate copy of my CV is attached hereto.
4. In that position, I was familiar with a property located in Hillsdale, Michigan at 221 Industrial Drive ("Hillsdale Site.").
5. This property was a former rubber compounding and molding operation of Hillsdale Rubber which was impacted by the releases of trichloroethylene ("TCE") in the early 1980's.
6. The Hillsdale Site was placed into the EP Custodial Trust ("Trust") in 2006 at the conclusion of certain Chapter 11 proceedings involving EaglePicher Holdings, Inc., pursuant to a settlement agreement between EaglePicher Holdings, Inc. and certain of its affiliates, the Michigan

Department of Environmental Quality ("MDEQ") and United States Environmental Protection Agency ("USEPA") and the Trustee of the Trust.

7. A second Hillsdale, Michigan property, located on South Street, was also placed into the EP Custodial Trust ("Trust").

8. The Hillsdale Site had undergone extensive site characterization and certain containment and remediation activities prior to its transfer to the Trust.

9. I have reviewed the *Motion by William L. West, Custodial Trustee of the EP Custodial Trust, to Enter an Order Amending the EP Custodial Trust to Provide for a Transfer of the Sum of \$100,000.00 From the Hillsdale Trust Account to the Administration Account of the EP Custodial Trust ("Motion")*, which addresses the remediation of the Hillsdale Site.

10. I have also reviewed the Custodial Trustee's Annual Reports for the years 2006-2014 filed in the above-captioned case.

11. To date, based on budgetary figures reported in the Motion, the Trust has expended at least \$1,782,408 on the Hillsdale Site and South Street Site.

12. No active remediation has occurred at the South Street property and a risk based report is being prepared to support a No Further Action Determination.

13. The Trustee has taken the following actions on the Hillsdale Site between 2006 and 2015:

- Installed 45 soil boring, 22 wells, and 9 soil vapor extraction wells.
- Conducted 1 bench scale test and 3 pilot tests on three technologies: soil vapor extraction, in-situ chemical oxidation and air sparging. Two of the three technologies were determined to be technically or economically impractical.
- Proposed a fourth technology, a bio-enhanced reductive dechlorination, as the primary remedial technology. The method has been approved by MDEQ but has not been tested.
- Prepared on technical memorandum (2008), two Remedial Program Addendums (2010 and 2011), one Part 22 Permit Exemption Request (2012), a pilot test plan (2013) and a letter of recommendation for a bio-enhanced reductive dechlorination supplemented by soil vapor extraction as the remedial approach (2015).

14. Between 2006 and 2015, the Trustee spent significant funds to study the site and to study and dismiss most of the remedial solutions examined to date as being technically or economically impractical. The Trustee has conducted no new remediation beyond the remedial system that was in place at the Trust's inception.

15. The Trust has now recommended an alternate solution that they reportedly began evaluating in the last 12 months but that has not been pilot tested at the Hillsdale Site, supported, temporarily, by the soil vapor extraction technology pilot tested in 2010.

16. In sum, in almost 9 years of site management, the Trust does not appear to be appreciably closer to a remedial solution for the site that it was at the outset. The most recent proposed solution has not been field evaluated and its effectiveness has not been verified. Nonetheless, MDEQ has approved expenditures of \$430,000 of the remaining Trust funding in 2015 to evaluate this technology.

17. At the end of 2015, the Trust will have approximately \$187,000 remaining. By the project consultant CEC's determination, this will be less than half of the funds required to complete remediation of the Hillsdale properties. The shortfall does not appear to take into account any longer term monitoring or system operation that may be required to achieve the site's remedial objective.

18. Regardless of whether the Trust assets have been well applied to date, no remediation has been conducted at the Hillsdale Site since the inception of the Trust 9 years ago.

19. Over 75% of the total funding of \$2.4 million for the South Street Site and Hillsdale Site has been expended to date. Of the 25% of the Trust assets remaining, only \$187,000 is projected to remain at the end of 2015. As no actual remediation at the site has begun as of this date, and as

acknowledged by the project consultant, this amount will be insufficient to complete remediation for the site.

20. When funding for the Trust was determined, through technical consultation and agreement between EaglePicher, USEPA and the State of Michigan, a combination of in-situ chemical oxidation and soil vapor extraction was contemplated as the remedial approach of choice. The work conducted by the Trust supports this original determination, however, it has determined that chemical oxidation is not economically feasible given the assets that now remain in the Trust.


21. Although it was recognized that, given the extent of contamination in groundwater extending downgradient of the site, long term containment and monitoring would be necessary elements of the remedial strategy, it was also contemplated that these additional active remedial activities would be largely completed in the first five years of the Trust's activities to actively address source contamination and preserve Trust assets. This site was considered well characterized at the time of creation of the Trust, and significant site investigation and study was not contemplated as necessary activities to achieve the remedial objectives for the site.

22. The Trust's, and State of Michigan's, approach to the site has differed significantly from the model used to determine Trust funding. The approach has taken far longer and utilized significantly more assets than were contemplated in creation of the Trust without accomplishing any significant remedial objectives for the site.

23. The Trust, regardless of how the remaining funds are used, (i.e. remediation, administration, etc.) will not have enough assets at this juncture to achieve the remedial objectives for this site. Accordingly, it appears that the State of Michigan or USEPA will have to complete the remedial activities for the Hillsdale properties.

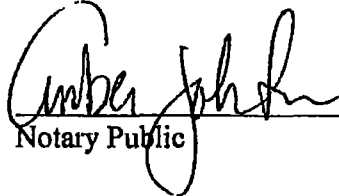
FURTHER AFFIANT SAYETH NAUGHT.

11 May 2015
Date


Paul Harper

Sworn and subscribed to before me by Paul Harper this 11 day of May, 2015.




Notary Public

0122877.0625824 4848-0536-6051v1

Paul D. Harper

Education

1987 M.B.A, Management, Marketing, University of Cincinnati Lindner School of Business

1978 B.S. Chemistry, Microbiology, Bowling Green State University

Registrations and Certifications

Six Sigma White Belt

Six Sigma Champion.

Experience

Mr. Harper is a Principal at ENVIRON International Corporation with over 30 years of experience in environmental and health and safety management, engineering and risk management. Mr. Harper's practice focuses on EHS and Risk Management matters, including conflict resolution, corporate governance, and dealing with complex environmental liabilities in operations, mergers and acquisitions, bankruptcy and corporate structurings. His experience includes successful implementation of EHS management systems, safety improvement and loss prevention and productivity improvement, as well as site solutions and remediation. Mr. Harper has extensive industrial experience in a broad cross section of industries, including mining and minerals processing, pulp and paper manufacturing and conversion, lead-acid and specialty chemistry battery manufacture, plastics and rubber formulation and products manufacture, heavy equipment and automotive parts fabrication and assembly, bronze and aluminum foundry operations, specialty chemical and metal production, specialty pharmaceutical development, and printing. His experience has included significant CERCLA and RCRA project management for both on-site and off-site impacts related to current and historical operations, including residential impacts. He has successfully concluded regulatory agency negotiations to resolve concerns under the Clean Water Act, RCRA, CERCLA and the Clean Air Act, and has conducted, state voluntary investigation/remediation programs, risk-based corrective actions, private party allocation negotiations and provided public participation and litigation support.

In addition to assisting clients in complex problems, Mr. Harper provides leadership for ENVIRON's Bankruptcy, Mining and Industrial Hygiene and Safety Practices.

Selected Litigation Support/ Testimony Experience

- Provided expert consulting support in a fatal incident investigation in a major process industry to determine causal elements of the incident. The client prevailed in the defense of agency claims.
- For an automotive manufacturing client, provided expert consulting support related to alleged chromium exposures to resolve workers compensation claims.

Paul D. Harper

- Provided expert testimony for a client concerning applicability of RCRA requirements in a cost recovery matter. The client prevailed in its claims.
- Provided expert consulting support in various RCRA waste characterization and regulatory compliance matters. The clients were able to prevail in their regulatory positions resulting in withdrawal of enforcement claims
- Provided expert testimony for financial valuation of environmental management costs in connection with class action litigation.
- Prepared expert reports supporting valuation of liabilities at over 30 former mining and mineral processing facilities, and supported estimation proceedings for both remedial and natural resource damages determinations.
- Provided testimony as a fact witness in support of formation of a remedial trust to resolve certain of the Client's environmental cleanup liabilities in the context of a Chapter 11 reorganization. The US EPA had proposed an allocation for cleanup scenarios approximately 5 times the costs projected by ENVIRON analysis of two sites. Client was successful in receiving federal bankruptcy court judgment allocating costs for Client's proposed cleanup.
- Served as 30(b)(6) deponent in civil litigation cases involving alleged violations of a facility's NPDES wastewater discharge permit; the history and projected remediation of environmentally impacted sites for the purposes of funding a Trust to achieve cleanup of said sites; and concerning the nature, extent, remediation and settlement of environmental claims related to RCRA and CERCLA cleanup costs in an insurance recovery matter.
- Served as a general deponent in asbestos litigation matters concerning asbestos management practices at operating facilities, and in defense of a settlement with US EPA for contribution claims at the Tar Creek, Cherokee County and Oronogo-Duenweg (Jasper County) CERCLA sites.
- Provided public testimony in support of issuance of a PSD permit for a facility in Oregon and issuance of a NPDES stormwater discharge permit in Missouri.

Resource Conservation and Recovery Act Matters

Mr. Harper has been involved with RCRA matters since regulations were promulgated in May 1980, first as part of a corporate-wide team characterizing wastes under RCRA for a large pulp and paper manufacturing company and later as the first Corporate Manager of Solid Waste Programs, including RCRA compliance, for that company. In his role as Director of Environmental Affairs and Safety Mr. Harper dealt with leading edge RCRA issues as the regulatory framework of RCRA emerged in the late 1980s, including provisional filing, LOIS, RCRA corrective action, waste characterization, Part B permitting and corporate wide compliance across a broad array of industries. His work for clients in the RCRA arena today builds on that experience including providing expert support on waste characterization, permitting issues, corrective action issues, and compliance matters

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Environmental, Health and Safety Management

As a former corporate executive with responsibility for environmental, health, safety and risk management programs at over 70 operating facilities in the United States, Canada, Mexico, South Korea and Europe. Mr. Harper successfully developed and implemented sustainable corporate EHS governance, financial management, compliance and performance management systems. He has formerly reported to the General Counsel, Chief Executive Officer and Board functions. Significant accomplishments include.

- Developed Enterprise Risk Management assessments of environmental risks for a multinational mining and chemical manufacturing company and risk management and contingency plans to manage identified risks appropriately.
- For a multinational mining and chemical manufacturing company, developed strategies and processes for improvement of environmental performance towards best in class performance.
- Developed environmental governance and compliance management systems for a \$1B food processing company with diverse locations in North America to assist them in resolving an eight figure proposed penalty for past performance. Working closely with counsel and executive management a governance system was conceived and management systems and tools developed to achieve corporate goals and support expansion of the company.
- Developed Crisis Response and Business Continuity plans for a radio pharmaceutical client with operations in 7 states in the Southeastern United States. Plans developed to allow for continuing service to customers in the event of extended production outages due to natural and man-made disasters.
- Provided Crisis Response Training and response planning for a pharmaceutical client at an urban manufacturing campus with business critical production processes.
- Developed environmental management programs conforming to Federal Sentencing Guidelines and US EPA Audit Policy standards. Programs have successfully addressed concerns of the United States Attorney and US EPA Federal Suspension and Debarment Program.
- Provided corporate level support for all environmental management, transaction and financial analysis to a private equity owned \$500 M diversified manufacturer of mineral, specialty chemical and pharmaceutical, specialty purpose battery, automotive parts and gasket coil coating operations in 12 states, Canada and Mexico.
- Developed and implemented integrated EHS Management Systems to establish ISO-compliant processes for management of environmental compliance and improvement, safety, property, resource management and product safety. The system allowed ISO 14001 certification to meet customer certification requirements.
- Developed and implemented programs for financial management and reporting obligations under applicable accounting standards and guidance, including development

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of reserve valuations and support documentation. Works closely with third party accounting firms to assure corporate compliance with applicable accounting standards.

- Developed corporate controls under Sarbannes-Oxley for environmental financial and performance reporting, including compliance with FIN 47, FASB 5, SOP-96 accounting standards. Compliance included auditing and reporting standards for corporate compliance, audits of facility environmental costs and asset recoveries on facility closure at 25 operating plants, and a process for establishing and reviewing environmental accruals.
- Developed and implemented integrated EHS audit programs for a multi-national company with over 20 business units and 60 manufacturing operations in North America and Europe.
- Permitted and designed and managed EHS programs for a Greenfield lead anode manufacturing facility in Arizona, including air permits, ventilation system design, stormwater discharge permits and comprehensive health and safety programs. ENVIRON provided ongoing EHS support to facility as its out-sourced EHS manager.

Health and Safety

Mr. Harper assists clients in improving organizational health and safety performance, implementing change management and reducing operational risk associated with health and safety issues. Integrating safety, industrial hygiene and occupational health, toxicology and epidemiology, Mr. Harper works with organizations to develop strategies and tactical programs for reducing risk and eliminating accidents from the workplace, resulting in positive employee work environments, increased productivity and measureable cost improvement. Some examples include.

- For an Asia Pacific client in the semiconductor industry, led a team of industrial hygienists, forensic hygienists and epidemiologists in developing exposure profiles for current day and historic manufacturing operations to demonstrate exposure control and focus future exposure risk management to assure continued protection of the workforce.
- In the semiconductor industry, evaluated whether risks of disease were related to historical occupational exposures for discreet disease cases.
- For a heavy industrial client, determined root causes in a fatality investigation and provided expert support to resolve agency and private party concerns.
- For an automotive manufacturing client, provided expert consulting support related to alleged chromium exposures to resolve workers compensation claims.
- For a client with over 1200 multinational operations, designed and led a risk-based exposure assessment and control program to assure continued protection of the workforce.

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- For a global client in heavy machinery manufacturing, designed risk-based occupational health programs to assess, mitigate and minimize exposures to occupational hazards including chemical, physical, noise, heat and ergonomic stressors. The program provided a risk-based platform that minimized employee risk while assuring compliance with myriad global compliance requirements.
- Developed and implemented safety management improvement measures at 30 heavy industrial facilities that resulted in a sustained reduction of injuries of over 70%, adding over \$5 million in productivity to the company bottom line. Measures included Cardinal Safety Rules and Procedures, an Accident and Recovery Management Practice, employee participation and training, on-site auditing of work behaviors, and analysis and action plans to accidents as they occurred. Lost time rates were reduced 85% and total recordable rates 70% to 25% of industry average rates. Concomitant reductions in Workers Compensation Insurance losses and premiums were achieved as well.
- Developed deployment of behavior-based training, auditing and coaching programs to promote safe employee work behaviors for a workforce of over 4000 employees. Using Six Sigma processes identified shortcomings in the initial rollout and implemented additional measures to improve behaviors and response to audit data. The Six Sigma project resulted in a 50% improvement in accident rates in the first 6 months of project implementation.
- Developed and implemented a successful Job Hazard Analysis program for a client with secondary lead smelter operations with recommendations for improvements and risk mitigation opportunities. The program included methodical analysis of 10 process areas and over 120 separate tasks within the facility over a multi-month period. Facility personnel were trained in the JHA process and the program integrated into the facilities' ongoing EHS operations system.
- Resolved without additional charges MSHA and OSHA citations in two separate fatal accident situations. The investigations into each accident and subsequent negotiations with the agencies were instrumental in developing defenses to agency allegations of criminal misconduct on the part of the Client.

Chemical Hygiene and Regulation

Mr. Harper has worked in the areas of Product Stewardship, Chemical Regulation and the European Union Registration, Evaluation, and Authorization of Chemicals (REACH) on which he has spoken extensively. He has also been involved in the development of regulations on crystalline silica in the United States and Europe.

- Acted as Executive Director of the International Diatomite Producers Association (IDPA), a trade association representing the international diatomaceous earth industry on crystalline silica issues.
- Consulted on epidemiological studies related to the health effects of respirable crystalline silica, particularly as crystalline silica issues relate to the diatomaceous earth processing industry, and organized industry association efforts to provide proper

warning and technical information to users following IARC designation of crystalline silica as a human carcinogen.

- Implemented pre-registration and registration of substances under the Registration, Evaluation and Authorization of Chemicals (REACH) in the European Union for non-exempt diatomaceous earth products concerning crystalline silica in industrial minerals. Through the efforts of IMA-Europe and its member organizations, significant changes to the proposed language were made favorable to the industrial minerals sector to exempt 'naturally-occurring' minerals.
- Participated as a Board Member on the Crystalline Silica Panel, an American Chemistry Council panel, to provide research into crystalline silica issues and support development of appropriate rules for the regulation of crystalline silica in the workplace at the federal and state level
- Participated as a Board member of the International Minerals Association – Europe, who negotiated and implemented the Social Dialogue Agreement concerning Crystalline Silica, the first SDA agreement put in place to preclude additional regulation at this time by the European Union of crystalline silica in the workplace. The SDA sets for Good Work Practices which must be implemented and reported on to national governmental bodies in all operations utilizing materials involving crystalline silica.

Corporate Structuring, Mergers and Acquisitions

As a former corporate executive and in a consulting role Mr. Harper has guided the evaluation, negotiation and structuring of complex environmental liabilities in numerous corporate transactions and reorganizations, including structuring two of the largest environmental bankruptcy claims on record. Some significant contributions include:

- Assisted a client with resolution of over 80 sites with over \$6 Billion of mining related environmental claims in addressing the largest group of environmental claims and the largest environmental settlement on record. ENVIRON determined appropriate technical solutions, cost estimates and allocation scenarios consistent with the NCP to determine allowable claim amounts for the claims and supported those through mediation and estimation hearings. Notable sites included the Couer d'Alene Box and Basin Sites, Omaha Lead Site, Tacoma Smelter Site, Tri State Mining District sites, Selby Smelter Site, and California Gulch Site.
- Developed valuations, financial models and alternative financial structures to support restructuring of \$6.5 Billion in mining-related environmental liabilities in a Chapter 11 proceeding. Working with financial advisors and third party capital sources ENVIRON provided a range of solutions towards facilitating a successful emergence from a Chapter 11 proceeding.
- Restructured a portfolio of 14 properties with significant environmental impacts in a managed Trust to relieve a reorganized Company of future environmental liabilities at these sites in a Chapter 11 proceeding. Based on existing information and limited additional Phase 1 and 2 investigations, conceptual remedial solutions were developed

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and required funding negotiated with State agencies in Michigan, Illinois, Kansas and Oklahoma, US EPA Regions V and VI and Headquarters, and the Department of Justice. Notable sites included a 100-year old lead, zinc and cadmium smelter site, former mining sites in Kansas and Illinois, and a TCE contaminated groundwater site.

- Structured environmental aspects of the sale of a \$700 million diversified heavy manufacturer with a 150-year operating history without conducting additional Phase 2 intrusive investigations. Performed detailed Environmental Site Assessments and developed remedial scenarios and liability assessments for 45 facilities and negotiated key provisions in the purchase and sale agreement to allow resolution of environmental concerns and subsequent management of the environmental issues, which was the key concern in completing the sale of the company.
- Negotiated a Global Settlement with US EPA, the Department of Interior, the Department of Justice and the associated States to resolve \$435 million claimed environmental and natural resource damage liabilities in 26 states as part of a global settlement agreement in a Chapter 11 reorganization. Notable sites included the Tar Creek, Cherokee County and Oronogo-Duenweg (Jasper County) mining sites in Oklahoma, Kansas and Missouri, and large-scale residential soil lead cleanups in Galena, Kansas and Joplin, Missouri.
- Structured environmental aspects of the sale of a \$700 million diversified heavy manufacturer with a 150-year operating history without conducting additional Phase 2 intrusive investigations. Performed detailed Environmental Site Assessments and developed remedial scenarios and liability assessments for 45 facilities and negotiated key provisions in the purchase and sale agreement to allow resolution of environmental concerns and subsequent management of the environmental issues, which was the key concern in completing the sale of the company.
- Mr. Harper has conducted Phase 1 and 2 investigations at over 100 facilities as part of acquisitions and divestitures in the United States, Canada, Mexico, the United Kingdom, Spain, Germany and South Korea.

Wastewater Management

Mr. Harper has resolved conflicts with US EPA and has significant engineering, operation and permitting experience in wastewater across a variety of industries, EPA regions and states, including:

- For a battery manufacturing company, resolved allegations by US EPA Region VII and VIII concerning permitting and discharges from categorically regulated manufacturing operations. The final permit negotiated correctly interpreted pretreatment standards. Coupled with wastewater reduction projects which reduce flow over 90%, wastewater treatment systems centered around chemical precipitation and membrane filtration enabled the operation to maintain compliance with its NPDES permit.

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- Permitted a closed copper mine and operating electrowinning operations under Arizona's Aquifer Protection Permit (APP). Resolved outstanding permit issues and worked with ADEQ to issue final APP permit.
- Led the design and engineering of an activated sludge process and aeration system for a Greenfield integrated kraft pulp and paper mill in the Upper Peninsula of Michigan.
- Led the process design of a retrofitted activated sludge process wastewater treatment system at a neutral sulfite pulp mill in the Upper Peninsula of Michigan. Performed the characterization of the microbial population with respect to oxygen requirements in a cold climate and designed the aeration system to allow compliance with NPDES permit requirements.
- Led the design and installation of a retrofitted aeration system in an activated sludge wastewater treatment process for an integrated kraft pulp and paper mill in Courtland, Alabama. Solution resolved sludge settling issues in secondary clarification and negated need for additional clarifier capacity while allowing compliance with NPDES permit requirements.

Air Management

Mr. Harper has broad based experience with Air Quality matters, including conflict resolution, permitting and emission control. His experience includes:

- Resolved allegations of the Oregon Department of Environmental Quality and the Nevada Department of Environmental Quality concerning the potential for excess sulfur emissions at mineral mining and processing operations.
- For an Oregon mineral processing facility, obtained a PSD major source permit for the facility without triggering NSR control strategies. Process improvements were developed for kiln operations to reduce sulfur emissions without having to install additional controls.
- For two Nevada mineral processing plants, negotiated major source FESOP permits and continued operation without addition of additional controls.
- Implemented evaluation of emissions and permits for 30 industrial manufacturing facilities to assure compliance for a multi-industrial company with Clean Air Act Title V permitting regulations.
- Led the evaluation of a non-condensable gas incineration system and recommendations for system design improvements at a 100-year old integrated kraft pulp and paper mill in North Carolina. The project was initiated from the explosion of the existing system and resulting non-compliance with permit requirements. The system was rebuilt and returned to operation in compliance and with additional safety controls.

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Mining Related Specific Experience

Mr. Harper has broad experience in the mining industry including aspects of operating mines in the copper, gold and diatomaceous earth extractive industries, evaluation and structuring of mining liabilities, and design and execution of remedial and reclamation strategies for closed mines including both open-pit and underground workings as well as smelting and refining operations in the copper, lead, zinc and diatomaceous earth industries. Some relevant examples include:

- Assisted a client with resolution of over 80 sites with over \$6 Billion of mining related environmental claims in addressing the largest group of environmental claims and the largest environmental settlement on record. ENVIRON determined appropriate technical solutions, cost estimates and allocation scenarios consistent with the NCP to determine appropriate technical solutions for both on-site and off-site impacts, including residential impacts, and allowable claim amounts for the claims and supported those through mediation and estimation hearings. Notable sites included the Couer d'Alene Box and Basin Sites, Omaha Lead Site, Tacoma Smelter Site, El Paso Lead Smelter site, Tri State Mining District sites, Selby Smelter Site, and California Gulch Site.
- For a client restructuring its Arizona mining operations, evaluated operating parameters and management systems, compliance and capital and operating budgets for 3 operating copper mines and associated smelting and refining operations. Reviewed mine operations, SRK capital evaluations for ongoing operations, 5 year operating plans and capital budgets to support expert opinions and testimony.
- Developed valuations, financial models and alternative financial structures to support restructuring of \$6.5 Billion in mining-related environmental liabilities in a Chapter 11 proceeding. Working with financial advisors and third party capital sources ENVIRON provided a range of solutions towards facilitating a successful emergence from a Chapter 11 proceeding.
- Restructured a portfolio of 14 properties with significant environmental impacts in a managed Trust to relieve a reorganized Company of future environmental liabilities at these sites in a Chapter 11 proceeding. Based on existing information and limited additional Phase 1 and 2 investigations, conceptual remedial solutions were developed and required funding negotiated with State agencies in Michigan, Illinois, Kansas and Oklahoma, US EPA Regions V and VI and Headquarters, and the Department of Justice. Notable sites included a 100-year old lead, zinc and cadmium smelter site, former mining sites in Kansas and Illinois, and a TCE contaminated groundwater site.
- Negotiated a Global Settlement with US EPA, the Department of Interior, the Department of Justice and the associated States to resolve \$435 million claimed environmental and natural resource damage liabilities in 26 states as part of a global settlement agreement in a Chapter 11 reorganization. Notable sites included the Tar Creek, Cherokee County and Oronogo-Duenweg (Jasper County) mining sites in Oklahoma, Kansas and Missouri, and large-scale residential soil lead cleanups in Galena, Kansas and Joplin, Missouri

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- Mr. Harper has negotiated numerous CERCLA settlements for US EPA-led and PRP-led cleanups of sites pursuant to consent orders with US EPA and various states involving both site and residential cleanups for Henryetta EaglePicher Zinc Smelter Site, Henryetta, Oklahoma, and the RSR Lead Smelter Site, Dallas, Texas.
- For a Trustee, ENVIRON is conducting site management, characterization and remediation for a portfolio of 19 former copper and lead mining and refining operations in 7 states. These sites include the Globe Smelter site in Denver Colorado; three former mine sites in Arizona, one of which is a 4,000 acre copper mining operation with open pit and underground workings.
- Conducted RCRA closure and RCRA Facility Investigation and Corrective Actions for a former mercury wastewater impoundment and former lead smelting cooling/stormwater pond and associated Solid Waste Management Units at a former lead smelting and chemicals manufacturing facility in Joplin, Missouri. The RCRA corrective action, included evaluation of 125 SWMUs going back to 1880 when the facility was a primary lead smelter. Subsequently the facility had been a lead chemicals manufacturing facility and specialty battery manufacturing facility.
- For a portfolio of 14 sites, including a 130 acre former lead, cadmium and zinc smelter, a lead mining and beneficiation site and a former automotive parts manufacturing facility with a significant TCE plume and source contamination, assisted the Trustee of the EaglePicher Trust in the characterization and remedial design for the sites. The Conceptual Site Models developed by ENVIRON formed the basis for final remedial actions at the sites and to date all projects have been accomplished successfully and at or under budget established by the Trust funding.
- At the Twin Buttes project, a closed 8,400 acre open pit copper mine with associated ore extraction/beneficiation processes, tailings ponds and waste rock and ore storage dumps, ENVIRON addressed US EPA Region 9 concerns to avoid a CERCLA site investigation and addressed open site concerns with the Arizona Department of Environmental Quality (ADEQ). Issues included tailings management and remediation, Aquifer Protection Permit issuance and compliance, BADCT compliance of discharging facilities, and potential groundwater contamination and association with an off-site sulfate plume,
- At the Eagle Hillsboro Zinc Site, negotiated and performed a RI/FS of a 90-year old zinc production facility with US EPA Region V. The RI/FS included an extensive ecological and human health risk assessment to demonstrate a lack of significant risk to receptors associated with the Site and to develop cleanup alternatives to large scale materials removal at the Site.
- Acted as Executive Director of the International Diatomite Producers Association (IDPA), a trade association representing the international diatomaceous earth industry on crystalline silica issues.
- Consulted on epidemiological studies related to the health effects of respirable crystalline silica, particularly as crystalline silica issues relate to the diatomaceous earth

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processing industry, and organized industry association efforts to provide proper warning and technical information to users following IARC designation of crystalline silica as a human carcinogen.

- Mr. Harper was a Board member of the International Minerals Association – Europe, who negotiated and implemented the Social Dialogue Agreement concerning Crystalline Silica, the first SDA agreement put in place to preclude additional regulation at this time by the European Union of crystalline silica in the workplace. The SDA sets for Good Work Practices which must be implemented and reported on to national governmental bodies in all operations utilizing materials involving crystalline silica.
- Resolved allegations of the Oregon Department of Environmental Quality and the Nevada Department of Environmental Quality concerning the potential for excess sulfur emissions at mineral mining and processing operations.
- For an Oregon mineral processing facility, obtained a PSD major source permit for the facility without triggering NSR control strategies. Process improvements were developed for kiln operations to reduce sulfur emissions without having to install additional controls.
- For two Nevada mineral processing plants, negotiated major source FESOP permits and continued operation without addition of additional controls.

Site Solutions and Remediation

Mr. Harper has been involved in negotiating and conducting site characterizations and developing remedial solutions under RCRA and CERCLA at more than 50 sites in the United States, Mexico and Europe since the 1980s through the course of the significant regulations in this arena. Some of the more significant projects include:

- In addition to negotiated resolutions under Chapter 11 proceedings above, Mr. Harper has negotiated numerous CERCLA settlements for US EPA-led and PRP-led cleanups of sites pursuant to consent orders with US EPA and various states. Some notable sites include: Henryetta EaglePicher Zinc Smelter Site; RSR Lead Smelter Site, Dallas, Texas; Larkin Waste Oil Site, Cleveland, Ohio; and Albion Landfill Site, Albion, MI.
- Conducted RCRA closure and RCRA Facility Investigation and Corrective Actions for a former mercury wastewater impoundment and former lead smelting cooling/stormwater pond at a RCRA regulated facility in Joplin, Missouri. The RCRA corrective action included evaluation of 125 SWMUs going back to 1880 when the facility was a primary lead smelter. Subsequently the facility had been a lead chemicals manufacturing facility and specialty battery manufacturing facility. The post-closure monitoring and care of the mercury impoundment was terminated after only 15 years on demonstration of no groundwater impacts.
- Assisted the Trustee of the EaglePicher Trust in the characterization and remedial design for a portfolio of 14 sites, including a 130 acre former lead, cadmium and zinc smelter, a lead mining and beneficiation site and a former automotive parts manufacturing facility

with a significant TCE plume and source contamination. The Conceptual Site Models developed by ENVIRON formed the basis for final remedial actions at the sites and to date all projects have been accomplished successfully and at or under budget established by the Trust funding.

- At the Twin Buttes project, a closed 8,400 acre open pit copper mine with associated ore extraction/beneficiation processes, tailings ponds and waste rock and ore storage dumps, ENVIRON addressed US EPA Region 9 concerns to avoid a CERCLA site investigation and addressed open site concerns with the Arizona Department of Environmental Quality (ADEQ). Issues included tailings management and remediation, Aquifer Protection Permit issuance and compliance, BADCT compliance of discharging facilities, and potential groundwater contamination and association with an off-site sulfate plume,
- At the Eagle Hillsboro Zinc Site, negotiated and performed a RI/FS of a 90-year old zinc production facility with US EPA Region V. The RI/FS included an extensive ecological and human health risk assessment to demonstrate a lack of significant risk to receptors associated with the Site and to develop cleanup alternatives to large scale materials removal at the Site.
- At the EaglePicher Site in Delta, Ohio, negotiated a Administrative Consent Order with US EPA Region V to conduct an EECA and implement Remedial Actions at a leaded-bronze foundry site. Remedial actions in excess of \$6 million included on- and off-site contamination characterization, coordination of blood-lead testing for residents in affected areas, cleanup of residential properties for lead to residential soil levels and cleanup on-site soils for lead and TCE to industrial levels.
- Resolved allegations under RCRA at a regulated facility in the context of a 5 year ongoing investigation by the US Attorney's office and US EPA. Agreements resolving the concerns of the Government without filing of any charges in the case were reached in three separate agreements with the US Attorney, US EPA Region VIII and US EPA Headquarters Suspension and Debarment Department.
- Negotiated and implemented RCRA corrective action for on- and off-site soils and groundwater contamination under the first Agreed Order to conduct RCRA closure with the State of Colorado and US EPA Region VIII involving surface impoundments and corrective action for soil and groundwater at a facility in Colorado Springs, Colorado. The surface impoundments formerly managed caustic wastewaters from the manufacture of nickel cadmium batteries. Groundwater contamination in a complex aquifer system co-mingled with a plume of perchloroethylene contamination from an off-site source was defined and remedial measures put in place to remediate the a caustic and nitrate plume using pump-and-treat technology and a wastewater treatment system for PCE and dissolved silica removal and neutralization.
- Conducted RCRA closure of surface impoundments containing aqueous heavy metal wastes from a gallium and germanium extraction and processing operation in Quapaw, Oklahoma. The surface impoundment was dewatered using gas-fired evaporation

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technology and reverse osmosis concentration, and the remaining sludge solidified in place prior to placement of a RCRA cap system.

- Performed the clean-closure of RCRA surface impoundments formerly managing acidic lead-containing wastewaters and solids at a lead-acid battery manufacturing operation in Socorro, New Mexico. Involved negotiation of a consent agreement with the New Mexico Environment Department and subsequent demonstration of alternate standards for clean closure in the impoundments.

Professional Affiliations

American Industrial Hygiene Association

American Society of Safety Engineers

Risk & Insurance Management Society

Air and Waste Management Association

Former Fellow, Institute of Hazardous Materials Management

Exhibit B

From: William West [<mailto:wwawest@ameritech.net>]

Sent: Monday, August 11, 2014 10:45 AM

To: Colleen Hitchins

Subject: EP Custodial Trust

Colleen:

I apologize for my tardiness in responding to your E-Mails. I had back surgery and the Trust has been in a state of flux since then. The problem is the Administration Trust is running out of funds and that has necessitated discussions with Michigan and Oklahoma on how to handle the current work without an Administration Trust.

The status of the projects are as follows:

- The Industrial Drive site is still active and we are planning to install a SVE system to remediate the area adjacent to the Rubber plant. The cost of this effort is about \$370,000. The Escrow Account currently has \$731,310. We believe that South Street will require little additional work. We have not had any success in selling any of these properties.
- Both Inkster and River Rouge have been completed except for a closing report for Inkster. The EPI-MI fund has been totally depleted. Efforts to sell these properties have not resulted in any success.
- The Galena, KS site has been completed and sold for \$250,000. The Galena Trust Fund is depleted.
- The Miami site was injected with chemicals and is in a monitoring phase. The Trust has \$22,928 and the Escrow Account has \$10,070. We expect the monitoring to continue for several quarters. The 35 BJ Tunnel property was sold for \$90,000. We are attempting to sell the 200 building to the same buyer but have not made much progress because of the on-going remediation.

I expect the Administration Fund to be depleted by September which will require the Trust to seek directions from the Bankruptcy Court. Motions to terminate the Trust will probably be submitted to the Court in late August or early September. What happens

after that is anyone's guess. I will keep you posted as to any filings or Court determinations.

Bill
William L. West
EP Custodial Trustee
26734 Jefferson Court
Bay Village, OH 44140-2238
440-871-2493 (P)
440-871-8767 (F)
216-496-4767 (C)

Exhibit C

EP Custodial Trust Administrative Fund Summary

	Cash	Letters of Credit	Rental Income	Unanticipated Rental Income	Property Sales	Other Income	Total Funding	Letter of Credit Draws
8/1/2006 Trust Inception	\$ 760,700 00	\$ 2,180,000 00					\$ 2,940,700 00	\$ 2,180,000 00
2006							\$ -	
2007							\$ -	\$ (200,000.00)
2008							\$ -	\$ (750,000 00)
2009							\$ -	\$ (200,000 00)
2010							\$ -	\$ (500,000 00)
2011							\$ -	\$ (455,000 00)
2012 Incremental Funding				\$ 172,381 32		\$ 16,200 00	\$ 188,581.32	\$ (75,000 00)
2013 Incremental Funding			\$ 257,918.46	\$ 28,730 22	\$ 326 66		\$ 286,975 34	
			\$ 40,880.00		\$ 12,751 94		\$ 53,631 94	
2014 Incremental Funding			\$ 40,880.00	\$ 28,730 22	\$ 125,021 42	\$ 170,000 00	\$ 364,631 64	
2015 Incremental Funding Estimate			\$ 40,880.00		\$ 75,600 00		\$ 116,480 00	
					\$ 22,500 00		\$ 22,500 00	
					\$ 100,000 00		\$ 100,000 00	
Totals	\$ 760,700 00	\$ 2,180,000.00	\$ 380,558 46	\$ 229,841.76	\$ 336,200.02	\$ 186,200.00	\$ 4,073,500.24	\$ -
							139%	
							\$ 1,132,800 24	

please note figures in red are estimates